IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3743 of 2005
Date of Decision: September 05, 2006

Surjit Singh .....Petitioner

versus

Harbans Singh and others .....Respondents

Present:- Shri R.S. Hundal, Advocate, for the petitioner

Shri Arun Jain, Advocate, and
Shri Amit Jain, Advocate for respondents No.1 to 3.

Shri Malkiat Singh, Advocate for respondent No.5

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned first Appellate Court on 20.04.2005 whereby the application filed by the plaintiff for grant of ad interim injunction was allowed while setting aside the order passed by the learned trial Court.

It has been found that Khasra No. 131 in which the drain is alleged to be proposed to be constructed is ownership of the panchayat and a drain was already constructed by the panchayat. The panchayat has not passed any resolution to divert the flow of water of street XY and portion Z, Z1 and Z2 but defendants No.1 and 4 have directed to put the water in dispute in the eastern pond though the same is injurious to the public interest.

The question whether direction could be issued by the District

Development and Panchayat Officer to construct the drain against the wishes of the panchayat is a question which can be gone into only after leading evidence by the parties. Since the panchayat has not consented to the construction of drain, I do not find any patent illegality or material irregularity in the order passed by the trial Court on 20-04-2005 warranting interference by this Court in exercise of its revisional jurisdiction under Article 227 of the Constitution.

Dismissed.

September 05, 2006 (HEMANT GUPTA)
ks JUDGE